

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JANE S. PENTONY and HOWIE J. PENTONY,
wife and husband,

Civil Action No. 2:21-cv-603

Plaintiffs,

vs.

UNITED STATES OF AMERICA,
UNITED STATES POSTAL SERVICE, and
JUDITH L. GREEN,

Defendants.

**COMPLAINT IN CIVIL ACTION
AND DEMAND FOR JURY TRIAL**

AND NOW come the Plaintiffs, Jane S. Pentony and Howie J. Pentony, wife and husband, by and through their attorneys, Raymond J. Conlon, Esquire, and Conlon Tarker P.C., and file this Complaint in Civil Action and demand for jury trial against the Defendants, United States of America, United States Postal Service, and Judith L. Green, averring in support as follows:

1. The Plaintiffs, Jane S. Pentony and Howie J. Pentony, are a married couple and at all times relevant were residents of Butler County, Pennsylvania, and remain so currently.
2. This matter arises from a motor vehicle accident involving Defendant Judith Green who was acting within the scope of her employment, agency, and/or servitude with the United States Postal Service, an independent establishment of the Executive Branch of the United States Government.

3. This action arises out of the Federal Tort Claims Act and this Court has exclusive jurisdiction over this matter under 28 U.S.C. 1346(b).

4. The United States of America is a proper defendant in this matter under 28 U.S.C. 2679.

5. The motor vehicle accident giving rise to this lawsuit occurred on May 29, 2019 in Lancaster Township, Butler County, Pennsylvania.

6. On this date, Plaintiff Jane Pentony was operating her vehicle northbound on Route 19.

7. At this same time, Defendant Judith L. Green stopped her United States Postal Service truck on the side of Route 19 while delivering mail within the scope of her employment, agency, and/or servitude as a mail carrier with the United States Postal Service.

8. Defendant Judith L. Green suddenly and without first assuring that no vehicle were traveling northbound with the right of way, such as Plaintiff Jane Pentony, pulled her vehicle into the roadway impeding Plaintiff's right of way and causing a violent crash.

9. This motor vehicle crash caused Plaintiff Jane Pentony to suffer the injuries and damages as set forth herein.

10. At all times relevant, Plaintiff Jane Pentony acted in a safe, reasonable, and lawful manner and in no way caused or contributed to her injuries and damages.

11. As a direct and proximate result of the negligence of the Defendants, Plaintiff Jane Pentony suffered the following serious and permanent injuries:

- a. Right shoulder impingement;
- b. Right rotator cuff strain;

- c. Moderate to severe foraminal stenosis at C3-4, C4-5, and C5-6;
- d. Acute cervical radiculopathy;
- e. Osteoarthritis of left knee;
- f. peroneal tendinitis;
- g. Subacromial bursitis;
- h. Pain in right shoulder, right biceps, neck, low back, left hip, left leg, and left ankle; and
- i. Any additional injuries as discovery may reveal.

12. As a further direct and proximate result of the negligence of the Defendants,

Plaintiff Jane Pentony incurred the following damages:

- a. Great pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life;
- b. Impairment of her general health, strength, and vitality;
- c. Loss of earnings and earning capacity; and
- d. Medical and other incidental expenses.

COUNT I – NEGLIGENCE

Jane S. Pentony v. Judith L. Green

13. Plaintiffs incorporate paragraphs 1 through 12 of this Complaint as if the same were set forth herein at length.

14. The Defendants are liable for Plaintiff Jane Pentony's injuries and damages set forth herein, for the following negligence attributed to the conduct of Judith Green:

- a. In failing to utilize her mirrors or in any way look to ensure no vehicles were traveling in the roadway with the right of way before pulling onto the roadway;

- b. In failing to keep a reasonable lookout for vehicle traveling northbound on Route 19 with the right of way;
- c. In operating her vehicle in such a manner to represent an unreasonable risk of harm to the Plaintiff Jane Pentony;
- d. In failing to have her vehicle under proper and adequate control under the circumstances;
- e. In failing to take reasonable steps to avoid a collision;
- f. In failing to operate her vehicle in a reasonable manner under the circumstances and according to the existing traffic conditions;
- g. In pulling her vehicle into the northbound lane of Route 19 and causing a collision with Plaintiff Jane Pentony; and
- h. In negligently entering the roadway in direct violation of 75 Pa. C.S.A. 3324 constituting *negligence per se*.

WHEREFORE, Plaintiffs, Jane S. Pentony and Howie J. Pentony, wife and husband, respectfully request judgement in their favor and against Defendants United States of America, United States Postal Service, and Judith L. Green, in the amount in an amount in excess of the jurisdictional limits of this Court plus costs of suit as sustained. A jury trial is demanded.

COUNT II – VICARIOUS LIABILITY

Jane S. Pentony v. United State of America and United States Postal Service

15. Plaintiffs incorporate paragraphs 1 through 14 of this Complaint as if the same were set forth herein at length.

16. The Defendants are liable for Plaintiff Jane Pentony's injuries and damages set forth herein, for the following negligence attributed to the conduct of Judith L. Green:

- a. In failing to utilize her mirrors or in any way look to ensure no vehicles were traveling in the roadway with the right of way before pulling onto the roadway;

- b. In failing to keep a reasonable lookout for vehicle traveling northbound on Route 19 with the right of way;
- c. In operating her vehicle in such a manner to represent an unreasonable risk of harm to the Plaintiff Jane Pentony;
- d. In failing to have her vehicle under proper and adequate control under the circumstances;
- e. In failing to take reasonable steps to avoid a collision;
- f. In failing to operate her vehicle in a reasonable manner under the circumstances and according to the existing traffic conditions;
- g. In pulling her vehicle into the northbound lane of Route 19 and causing a collision with Plaintiff Jane Pentony; and
- h. In negligently entering the roadway in direct violation of 75 Pa. C.S.A. 3324 constituting *negligence per se*.

17. The Defendants are independently liable for Plaintiff Jane Pentony's injuries and damages set forth herein, for their own negligence, which consisted of the following:

- a. In hiring Defendant Judith Green, when they knew or should have known that she was not qualified to safely, reasonably, and/or lawfully operate their mail delivery truck;
- b. In engaging the services of Defendant Judith Green as a mail carrier when they knew or should have known that she was not qualified to safely do so safely, reasonably, and/or lawfully;
- c. In failing to adequately train, supervise, and instruct Defendant Judith Green; and
- d. In allowing Defendant Thornton to remain in their employ when they knew or should have known that she was not qualified and/or trained to safely, reasonably, and/or lawfully operate a mail delivery truck.

WHEREFORE, Plaintiffs, Jane S. Pentony and Howie J. Pentony, wife and husband, respectfully request judgement in their favor and against Defendants United States of America, United States Postal Service, and Judith L. Green, in the amount in an amount in excess of the jurisdictional limits of this Court plus costs of suit as sustained. A jury trial is demanded.

COUNT III – LOSS OF CONSORTIUM

Howie J. Pentony v. United State of America, United States Postal Service and Judith L. Green

18. Plaintiffs incorporate paragraphs 1 through 17 of this Complaint as if the same were set forth herein at length.

19. At all times relevant to this lawsuit, the Plaintiffs, Howie and Jane Pentony, were and remain husband and wife.

20. As a result of the negligence of the Defendants, Plaintiff Howie Pentony has been and will in the future continue to be obliged to spend large and various sums of money for medicine, medical care, therapeutic treatment and attention for the well-being of his wife, Plaintiff Jane Pentony.

21. As a further result of the negligence of the Defendants, Plaintiff Howie Pentony has been and will in the future continue to be deprived of the aid, assistance, comfort, consortium, companionship, services and society of his wife, Plaintiff Jane Pentony, all of which has been and will be to his great detriment and loss.

22. As a further result of the negligent conduct of the Defendants, Plaintiff Howie Pentony's quality of life has been adversely affected. He is greatly hindered in enjoying the present and future pleasures of life, all to his great misfortune.

WHEREFORE, Plaintiffs, Jane S. Pentony and Howie J. Pentony, wife and husband, respectfully request judgement in their favor and against Defendants United States of America, United States Postal Service, and Judith L. Green, in the amount in an amount in excess of the jurisdictional limits of this Court plus costs of suit as sustained. A jury trial is demanded.

Respectfully submitted,

CONLON TARKER, P.C.

/s/ Raymond J. Conlon
Raymond J. Conlon, Esquire
PA ID. No. 49495
E-mail: conlon@conlontarker.com

Matthew T. McCune, Esquire
PA ID No. 317812
E-mail: mccune@conlontarker.com

108 East Diamond Street
Butler, PA 16001
(724) 285-7700 Phone
(724) 285-6700 Fax

Date: May 6, 2021

*Counsel for the Plaintiffs, Jane S. Pentony
and Howie J. Pentony, wife and husband*